

REMARKS

Claims 1-23 are active in this application. Reconsideration is respectfully requested.

Independent Claims 1 and 23 are reproduced for reference:

1. A cleansing composition, comprising:

a surfactant component consisting essentially of at least one phosphate surfactant, at least one foaming non-ionic surfactant and at least one cationic polymer devoid of saccharide groups in an aqueous medium, the composition having the appearance of a transparent gel.

23. A cleansing composition, which comprises:

at least one phosphate surfactant, at least one foaming nonionic surfactant and at least one cationic polymer devoid of saccharide groups and selected from the group consisting of (1) homopolymers and copolymers of acrylic acid and methacrylic acid esters or amides, (2) alkyldiallylamine or dialkyldiallylammonium polymers, (3) quaternary polymers of vinylpyrrolidone and imidazole or of vinylimidazole or methylvinylimidazole and (4) vinylpyrrolidone polymers comprising methacrylamidopropyltrimethylamine or methacrylamidopropyltrimethylammonium units in an aqueous medium, the composition having the appearance of a transparent gel.

The prior art relied upon in the Official Action does not describe these compositions and, in particular, do not describe the compositions with at least one cationic polymer devoid of saccharide groups. Therefore, the rejections of Claims 1-6, 10-15 and 17-23 under 35 U.S.C. § 103(a) over Mottram in view of Derian and of Claims 7-9 and 16 under 35 U.S.C. § 103(a) over Mottram, Derian, and Schelges are untenable and should be withdrawn.

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” (MPEP §2143.03 citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

Mottram describes several specific shampoo formulations and the Examiner has argued that one would first add the polyquaternium 10 component from formula H on page 191 into the shampoo in Formula D, which is on page 189, and then replace the sodium lauryl sulfate in Formula D with the phosphate surfactants from Derian et al (U.S. Patent no. 6,262,130). Even if the Applicants conceded that this hindsight reconstruction of the present invention was substantiated, this combination still fails to suggest the claims because polyquaternium 10 (from Mottram) contains saccharide groups and the present claims require that the cationic polymer is one which is devoid of saccharide groups. Therefore, this combination of prior art fails to describe or suggest all of the limitations of the present claims. As independent Claims 1 and 23 are not obvious in view of this combination of prior art, the remaining claims are also not obvious in view of this prior art: "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)" (MPEP § 2143.03).

In any case, Schelges does not remedy these deficiencies. Schelges is relied upon to replace the non-ionic surfactant, cocodiethanolamide, from formula D in Mottram with the alkyl polyglucosides from Schelges. However, Schelges does not describe a cationic polymer which is devoid of saccharide groups and as such the combination with Mottram and Derian do not render the present claims obvious. The importance of selecting a cationic polymer devoid of saccharide groups as a surfactant component as opposed to any other cationic polymer such as polyquaternium 10, is evident from the comparative evidence provided in the Declaration submitted to the Office on April 25, 2002 (a copy of the Declaration is attached for reference).

The declaration provides a comparison of two formulations differing only in the most significant respect by containing polyquaternium 10 versus polyquaternium 7 (a cationic polymer devoid of saccharide groups). The results demonstrate most significantly that superior

rinsing is exhibited by the composition of the invention containing polyquaternium 7 versus the comparative formulation which contains polyquaternium 10. Further, the gel embodiment of the invention is also more viscous as a gel than the polyquaternium 10 containing composition.

In view of the foregoing, withdrawal of both grounds of rejection is requested.

Applicants also request that this application be passed on to issuance.

Respectfully submitted,

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